



New Paid Leave Requirements Are Here

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Federal



- No U.S. federal law gives workers the right to any kind of **paid** vacation, personal time, or other general-use paid time off.
- No U.S. federal law provides a right to **paid** sick time, or family and medical leave (except for federal contractors who are subject to EO 13706).
- In December 2023, a bipartisan group of lawmakers announced a renewed legislative effort to get something on the table. Lawmakers in the Senate and House released a letter seeking input from about three dozen advocacy, business and interest groups and the public about what paid leave policies would be effective, necessary, and fiscally possible.

Across the States



- Maine, Nevada, and Illinois, along with a few localities, have passed laws giving covered employees the right to earn and use paid time off that can be used for any reason.
- These laws are often styled as “paid leave” laws – separate, in most cases, from other types of laws that require paid sick time or paid family and medical leave laws.
- Roughly 20 states and 30 local jurisdictions have implemented paid sick leave laws. Several of these states and jurisdictions amended their paid sick leave policies in 2023, with the amendments taking effect Jan. 1, 2024.

How Did We Get Here (IL)?



- In 2023, the state enacted the Paid Leave for All Workers Act (PLAWA) requiring employers to give their Illinois employees up to 40 hours of paid time off (PTO) for any reason in a 12-month period.
- PLAWA exempts any Employer that is already covered by an existing local paid leave law.
- **After the state enacted PLAWA, Cook County and the City of Chicago each overhauled their paid leave ordinances and made them effective prior the PLAWA's effective date of 1/1/2024.**

➔ **CONFUSION**



**IL Paid Leave For All Workers Act
- and -
Cook County Paid Leave Ordinance**

IL Paid Leave for All Workers Act (PLAWA)



- Effective January 1, 2024.
- Eligible employees will earn 40 hours of paid leave every 12-month period at a rate of one hour for every 40 hours worked and will be able to use their accrued paid leave for any purpose.
- The Illinois Act does **not** apply to employees who are covered by the **Chicago or Cook County** paid leave ordinances.
- Enforced by the IL Dept. of Labor. Proposed rules are issued, but not finalized or approved by the Jt. Committee on Administrative Rules (bipartisan legislative oversight committee that reviews administrative rules issued by state agencies).

Cook County Paid Leave Ordinance



- Effective December 31, 2023; enforcement began Feb. 1, 2024.
- Unless/until municipalities that fall within Cook County (outside of Chicago) affirmatively opt out of this ordinance, all will be subject to this Cook County Ordinance.
- The County Ordinance does not apply to ERS and EES that fall under the Chicago paid leave ordinance.
- If an employer is either outside of the City of Chicago or Cook County, the PLAWA applies.
- Enforced by the Cook County Commission on Human Rights. Proposed Rules are issued, but not yet finalized with approval from Cook County Board of Commissioners.

Order of Application (Generally)



Only one jurisdiction's law applies to each employee, with the general order of application being as follows:

1. The amended 2023 Chicago Paid Leave and Paid Sick and Safe Leave Ordinance applies to covered employees in Chicago;
2. The 2023 Cook County Ordinance applies to covered employees working in municipalities that have not opted out of it* (and who do not work in Chicago);
3. If a local ordinance of a Cook County municipality that has opted out provides equivalent or better leave than the Illinois Act, the opted-out municipality's ordinance will apply to covered employees; and
4. The Illinois Act applies to all other covered employees.

IL/CC: Effective Date and Application



	Cook County Ordinance	IL PLAWA
Effective Date	12/31/23 *Enforcement begins 2/1/2024	1/1/24
Where does it apply?	All municipalities within Cook County, except Chicago, unless a municipality has opted out of the County ordinance.	Entire State of Illinois, except where local jurisdictions (i.e. Cook County, City of Chicago) have their own applicable laws.

IL/CC: Who is Covered?



	Cook County Ordinance	IL PLAWA
Employer (ER)	<p>Any individual, partnership, association, corporation, limited liability company, business trust, or any person or group of persons that gainfully employs at least one employee. ** (ordinance vs. website)</p> <p>Exceptions: If federal or state law preempts the ER from being covered or ER exclusively employs individuals who are exempt from coverage under the ordinance.</p>	<p>Any individual, sole proprietor, partnership, association, corporation, limited liability corporation, business trust, employment and labor placement agency, state or local unit of government, any political subdivision of the State, or any State or local government agency, including all branches of state, that employs individuals in IL.</p> <p>Exceptions: public school districts and park districts.</p>
Employee (EE)	<p>“EES” are individuals who perform compensated work while physically present within Cook County.** “Compensated Work” includes compensated commuting and traveling into Cook County for a work purpose (deliveries, sales calls, and travel related to another business activity).</p> <p>*Some exceptions apply – but does not exclude delivery and airline workers.</p>	<p>“EES” are individuals who perform work in Illinois for an ER that does business in Illinois. *Some exceptions apply:</p> <ul style="list-style-type: none"> • Certain railroad and airline employees • Certain higher education employees • Employees who work in construction <u>and</u> are covered by a union CBA • Employees who work in package transportation and delivery (domestic and international freight) and are covered by union CBA • bona fide dependent contractors

IL/CC: Accrual and Carryover



	Cook County Ordinance	IL PLAWA
Accrual	<p>1 hour of Paid Leave for every 40 hours worked.</p> <p>*Alternatively, ERS may frontload leave at the beginning of the year rather than use accrual.</p> <p>Accrual cap of 40 hours per 12-month period is ok.</p>	<p>1 hour of Paid Leave for every 40 hours worked.</p> <p>*Alternatively, ERS may frontload leave at the beginning of the year rather than use accrual.</p> <p>Accrual cap of 40 hours per 12-month period is ok.</p>
Carryover	<p>Yes. Any unused Paid leave can be carried over (except where frontloaded/provided on a pro rata basis).</p> <p>*ERS are not required to allow use of more than 40 hours of Paid Leave in a 12-month period.</p> <p>Proposed Rule indicates that ER cannot impose carryover cap of less than 40 hours (so a 40-hour cap would be ok).</p>	<p>Yes. Any unused Paid Leave can be carried over (except where frontloaded/provided on a pro rata basis).</p> <p>*ERS are not required to allow use of more than 40 hours of Paid Leave in a 12-month period.</p> <p>Proposed Rules allow for carryover cap of 80 hours – so potentially 120 hours per year.</p>

IL/CC: Use



	Cook County Ordinance	IL PLAWA
Reasons Leave Can Be Used	For any reason.	For any reason.
When EES can begin using leave	May begin using Paid Leave on either: (1) 90 days after 12/31/23; OR (2) 90 days after starting employment, whichever is later.	May begin using Paid Leave on either: (1) 90 days after 1/1/24; OR (2) 90 days after starting employment, whichever is later.
Requesting Paid Leave	ERS must allow verbal* or written requests for use of paid leave	ERS must allow verbal* or written requests for use of paid leave
Notice from EE	<ul style="list-style-type: none"> • Foreseeable leave – up to 7 days of notice • Unforeseeable leave – as soon as practicable <p>ER cannot deny an EE's request based solely on not meeting ER's foreseeability requirements.</p>	<ul style="list-style-type: none"> • Foreseeable leave – up to 7 days of notice • Unforeseeable leave – as soon as practicable
Denying Request	ERS can deny a request for PL if (1) the written policy is disclosed to EE; (2) restrictions are limited to the regular workweek; and (3) the denial is based on operational needs.	ERS can deny a request for PL – but ER must carefully consider its operational needs in light of what is reasonable and foreseeable, in light of the EE's right to take the leave for any reason.
Minimum Increment of Use	2 hours per day	2 hours per day

IL/CC: Pay



	Cook County Ordinance	IL PLAWA
Payout Upon Termination or Separation from Employment	Generally, no, UNLESS Paid Leave was already credited to an employee's paid time off bank or vacation account (front loaded). *See Illinois Wage Payment and Collection Act.	Generally, no, UNLESS Paid Leave was already credited to an employee's paid time off bank or vacation account (front loaded). *See Illinois Wage Payment and Collection Act.
Regular Rate of Pay	Wages paid to an EE per hour/week as calculated by Cook County Minimum Wage Ordinance.	<p>For EES who do not customarily receive gratuities or commission as part of pay - EE's average hourly rate of pay as calculated according to Subpart D of IL Minimum Wage Law.</p> <p>For commissioned EES or those who customarily receive gratuities – at least the full minimum wage in the jurisdiction where EE is employed when paid leave is taken.</p>

IL PLAWA Only – Continuation of Health Coverage



- During any period in which EE takes PL, the ER must maintain coverage for the EE and any family member under any group health plan for the duration of the leave, at the level and conditions in place at the time.

IL/CC: Joint Employer



Cook County

Where 2 or more ERS have “some control over the work or working conditions of an employee,” they may be treated as joint employers of the EE for purposes of the ordinance. To be considered joint ERS, each ER must independently satisfy the definition of Employer.

“Notwithstanding any agreement among joint employers, all joint employers remain responsible for compliance with the Ordinance and for satisfaction of any penalties imposed for any violation thereof.” Section 320.300 of Cook County Proposed Rules.

IL PLAWA

All joint employers shall be jointly and severally liable for any violation of the Act.

Whether a joint employment relationship exists depends on all the facts. The inquiry will focus on the actual relationship between the employee and the employers, including the employers' ability to exercise control over the employee either directly or indirectly. No one factor is dispositive in the determination of joint employment. Examples at Section 210.115 of 56 Ill. Adm. Code 210.

IL/CC: Union Represented Employees



	Cook County	IL PLAWA
Collective Bargaining	<p>EES covered by collective bargaining agreements in effect as of 12/31/2023 are “grandfathered” in for the duration of the pre-existing agreement.</p> <p>For all subsequent CBAs, renewals or extensions, the ordinance will apply unless the parties agree to waive ordinance requirements. Waiver must be explicit, clear, and unambiguous in the agreement.</p>	<p>EES covered by collective bargaining agreements in effect as of 1/1/2024 are “grandfathered” in for the duration of the pre-existing agreement.</p> <p>For all subsequent CBAs, renewals or extensions, the ordinance will apply unless the parties agree to waive ordinance requirements. Waiver must be explicit, clear, and unambiguous in the agreement.</p>
Individual Bargaining	<p>Individual waivers will not be recognized and are void as against public policy.</p>	<p>Individual waivers will not be recognized and are void as against public policy.</p>

IL/CC: Recordkeeping and Notice Requirements



	Cook County Ordinance	IL PLAWA
Records	<ul style="list-style-type: none"> ERS are required to maintain the following records for each employee for 3 years: hours worked, amount of paid leave accrued or frontloaded; and hours of paid leave used and when. If an ER frontloads PL, ER shall give written notice to the EE informing them how many PL hours the EE will receive on or before the first day of employment or the first day of the 12-month period. 	<ul style="list-style-type: none"> ERS are required to maintain the following records for each employee for 3 years: hours worked, amount of paid leave accrued or frontloaded; and hours of paid leave used and when. Records must also include remaining paid leave balance in each workweek and upon separation from employment.
Notice/Posting	<p>Where any EE works within Cook County, a notice advising of their rights under the ordinance is required. County notice can be found at https://www.cookcountyil.gov/service/paid-leave-ordinance-and-regulations.</p>	<p>Every IL employer must post the Paid Leave for All Workers Notice. The posting can be found at: https://labor.illinois.gov/laws-rules/paidleave.html</p>

IL/CC: Prohibited Practices



Cook County Ordinance	IL PLAWA
<p>Requiring that an EE find coverage as a condition of using Paid Leave;</p> <p>Retaliating against an EE for exercising rights under the Ordinance or participating as a party or witness in a case alleging a violation of the Ordinance that is or was pending before the Commission;</p> <p>Counting absences arising from the use of properly noticed Paid Leave as an absence that triggers discipline, demotion, suspension or any other adverse employment action;</p> <p>Switching an EE's schedule after they provide notice that they are using or will use Paid Leave to avoid paying the employee during their absence;</p> <p>Forbidding or requiring an EE to take Paid Leave, provided that it is not prohibited for an ER to require that an EE use accrued Paid Leave when the EE can do so instead of taking an unpaid absence from work; or</p> <p>Paying an EE to not take Paid Leave.</p>	<p>ER is prohibited from considering an EE's use of paid leave as a negative factor in any employment action that involves evaluations, promotion, discipline, or counting paid leave under a no-fault attendance policy.</p> <p>** This should not affect call-off policies and time and attendance policies. This is directed to no-fault points systems.</p>

IL/CC: Penalties and Filing Period



	Cook County Ordinance	IL PLAWA
Damages and Penalties	<p>EE may recover three (3) times the full amount of unpaid leave denied or lost, interest calculated at the prevailing rate, and reasonable attorney's fees.</p> <p>Fines ranging from \$500 to \$1,000.</p>	<p>EE may recover damages for actual underpayment, compensatory damages, equitable relief, which may include attorney's fees, expert witness fees, other costs.</p> <p>Fines ranging from \$500 to \$1,000.</p>
Filing Period	Within 3 years of the alleged violation.	Within 3 years of the alleged violation.
Private Right of Action	Yes	No – File with IDOL.

IL/CC: Existing Leave Policies



Cook County Ordinance

An ER with a bona fide pre-existing policy (PTO, PSL or Paid Vacation) that allows all employees to take 40 hours of paid leave in a 12-month period for any reason of the employee's choosing is NOT required to modify the terms of their policy (per Cook County FAQ's).

IL PLAWA

An ER with a bona fide pre-existing policy (PTO, PSL or Paid Vacation) that allows all employees to take 40 hours of paid leave in a 12-month period **for any reason** of the EE's choosing is NOT required to modify the terms of their policy (per IDOL proposed rules), provided that the **existing policy was revised to state that paid leave under the PLAWA will be credited against the existing paid leave policy – before 1/1/2024.**

However, if the required PL is rolled into the existing policy, note that accrued, unused PTO/Vacation must be paid out under IWPCA.

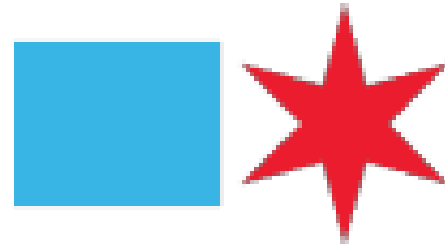
The above is based on the **proposed rules – not the language of the law.** In effect, PLAWA and Cook County requires any new ER or ER that did not have paid leave plans in place before/by January 1, 2024, to now adopt an IL Paid Leave for All Workers Act plan. **

What if we missed the 1/1/24 deadline to revise the preexisting policy?



- The Company **MUST** give employees written notice if they are going to change the vacation or PTO policy or any other paid leave policy that affects an employee's rights to final compensation payout of the leave.
- At this time, it is not entirely clear what “requirements” would apply to a new or revised PTO/Vacation policy after 1/1/24. However, changes that do not impact the **MINIMUM AMOUNT OF LEAVE** under the law to be used for **ANY REASON** will likely be “okay.”

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Chicago Paid Leave and Sick and Safe Leave Ordinance

Interplay with PLAWA



- Prior to the passage of Illinois' PLAWA, Chicago granted workers the right to paid sick time when they or their loved ones were sick or seeking care, but it did not grant paid time off that could be used for any reason.
- After the PLAWA, Chicago expanded its existing paid sick time law to add the requirement that employer provide paid time off that can be used for any reason – separate from the paid sick time that employees will continue to earn under the city ordinance.
- Chicago ordinance is enforced by the Chicago Dept. of Business Affairs and Consumer Protection Office of Labor Standards. Proposed Rules are issued, but not finalized. Public comment period runs through February 16.

CHI: Effective Dates and Application



	City of Chicago	Cook County	IL
Effective Date	12/31/23 *Delayed implementation until 7/1/24	12/31/23 *Enforcement begins 2/1/2024	1/1/24
Where does it apply?	Within the City of Chicago	All municipalities within Cook County, except Chicago, unless a municipality has opted into IL Paid Leave for All Workers Act (PLAWA) or has an equivalent ordinance.	Entire State of Illinois, except where local jurisdictions (i.e. Cook County, City of Chicago) have their own applicable laws.

CHI: Who is Covered?



	Chicago Ordinance	Cook County Ordinance	PLAWA
Employer (ER)	Any person who gainfully employs at least 1 EE.	Any individual, partnership, association, corporation, limited liability company, business trust, or any person or group of persons that gainfully employs at least one employee. Exceptions: if federal or state law preempts the ER from being covered or ER exclusively employs individuals who are exempt from coverage under the ordinance.	Any individual, sole proprietor, partnership, association, corporation, limited liability corporation, business trust, employment and labor placement agency, state or local unit of government, any political subdivision of the State, or any State or local government agency, including all branches of state, that employs individuals in IL. Exceptions: public school districts and park districts.
Employee (EE)	“EES” are any individuals who perform at least 80 hours of work for an ER in a 120-day period while physically present within the geographic boundaries of the City of Chicago (this includes individuals who travel within the boundaries of the city of Chicago on compensated time). *Some exceptions apply.	“EES” are individuals who perform compensated work while physically present within Cook County. “Compensated Work” includes compensated commuting and traveling into Cook County for a work purpose (deliveries, sales calls, and travel related to another business activity). *Some exceptions apply.	“EES” are individuals who perform work in Illinois for an ER that does business in Illinois. *Some exceptions apply.

CHI: Accrual and Carryover



	Chicago Ordinance	Cook County Ordinance	PLAWA
Accrual	<p>Paid Leave AND Paid Sick Leave – Minimum 1 hour for every 35 HOURS worked <u>in Chicago</u>.</p> <p>Accrual cap of 40 hours of PL and PSL for each 12-month period.</p> <p>*Alternatively, ERS may frontload either or both 40 hours of PL and 40 hours of PSL, at the beginning of the year rather than use accrual.</p> <p>*Alternatively, ERS may provide unlimited PTO (next slide).</p>	<p>1 hour of Paid Leave for every 40 hours worked.</p> <p>*Alternatively, ERS may frontload leave at the beginning of the year rather than use accrual.</p> <p>Accrual cap of 40 hours per 12-month period is ok.</p>	<p>1 hour of Paid Leave for every 40 hours worked.</p> <p>*Alternatively, ERS may frontload leave at the beginning of the year rather than use accrual.</p> <p>Accrual cap of 40 hours per 12-month period is ok.</p>
Carryover	<p>Paid Leave – Yes, may carry over up to 16 hours of unused Paid Leave (except where frontloaded or provided on a pro rata basis).</p> <p>Paid Sick Leave – Yes, may carry over up to 80 hours of unused Paid Sick Leave (even if PSL frontloaded).</p>	<p>Yes. Any unused Paid leave can be carried over (except where frontloaded/provided on a pro rata basis).</p> <p>No carryover cap reflected in ordinance or Proposed Rules.</p>	<p>Yes. Any unused Paid Leave can be carried over (except where frontloaded/provided on a pro rata basis).</p> <p>Proposed Rules allow for carryover cap of 80 hours – so potentially 120 hours per year.</p>

CHI: Use



	Chicago Ordinance	Cook County Ordinance	PLAWA
Reasons Leave Can Be Used	<p>Paid Leave – for any reason.</p> <p>Paid Sick Leave – for illness, injury, family illness, victim of domestic violence, victim of sex offense or trafficking, business closed for public health emergency, family care, etc.</p>	For any reason.	For any reason.
When EES can begin using leave	<p>Paid Leave – 07/01/2023 OR 90 calendar days after starting employment, whichever is later.</p> <p>Paid Sick Leave – 07/01/2023 OR 30 calendar days after starting employment, whichever is later. *NOTE: Employers must comply with the City’s current Paid Sick Leave Ordinance until 07/01/2024</p>	<p>May begin using Paid Leave on either: (1) 90 days after 12/31/23; OR (2) 90 days after starting employment, whichever is later.</p> <p>A 40-hour use cap per 12-month period is ok.</p>	<p>May begin using Paid Leave on either: (1) 90 days after 1/1/24; OR (2) 90 days after starting employment, whichever is later.</p> <p>A 40-hour use cap per 12-month period is ok.</p>
Requesting Paid Leave		ERS must allow verbal* or written requests for use of paid leave	ERS must allow verbal* or written requests for use of paid leave
Minimum Increment of Use	<p>4 hours per day for Paid Leave</p> <p>2 hours per day for Paid Sick Leave</p>	2 hours per day	2 hours per day

CHI: Notice and Request



	Chicago Ordinance	Cook County Ordinance	PLAWA
Notice from EE	<ul style="list-style-type: none"> • Foreseeable leave – up to 7 days of notice • Unforeseeable leave – as soon as practicable <p>For Paid Sick Leave only, ER may require certification for more than three consecutive Paid Sick Leave days.</p> <p>EES may choose whether to use Paid Sick Leave or Paid Leave before using any other leave provided by the ER or required by city, state, or federal law.</p>	<ul style="list-style-type: none"> • Foreseeable leave – up to 7 days of notice • Unforeseeable leave – as soon as practicable <p>ER cannot deny an EE’s request based solely on not meeting ER’s foreseeability requirements.</p>	<ul style="list-style-type: none"> • Foreseeable leave – up to 7 days of notice • Unforeseeable leave – as soon as practicable
Denying Request	<p>Paid Leave policy may require and EE to obtain reasonable pre-approval from the Employer before using PL for the purposes of maintaining continuity of ER operations.</p> <p>An ER shall not require certification before receiving notification that an EE will be using Paid Sick Leave for a third consecutive workday. EE chooses what document to submit.</p>	<p>ERS can deny a request for PL if (1) the written policy is disclosed to EE; (2) restrictions are limited to the regular workweek; and (3) the denial is based on operational needs.</p>	<p>ERS can deny a request for PL – but ER must carefully consider its operational needs in light of what is reasonable and foreseeable, in light of the EE’s right to take the leave for any reason.</p>

CHI: Unlimited PTO – Alt. to Accrual?



- In lieu of accruing or frontloading the required amount of PL and PSL and providing carryover, ERS may instead provide EES with unlimited PTO, which may be used for any reason.
- Carryover requirements do not apply to ERS that grant unlimited PTO. However, the ER would be required to pay separating employees the monetary equivalent of 40 hours of PTO, minus the hours of PTO used by the EE in the last 12-month period before the EE's date of separation from employment, as part of the employee's final compensation.
- ERS who grant unlimited PTO must maintain record of EE's paid leave use to ensure accurate calculation of any required payout.

CHI: Payout Upon Termination



Chicago Ordinance	Cook County Ordinance	PLAWA
<p><u>No</u> payout for Paid <u>Sick</u> Leave.</p> <p><u>Payout</u> for Paid Leave <u>may</u> be due:</p> <p>Large employers (101+ employees) – Yes. Payout of FULL amount of unused leave required. *NOTE: never more than 7 days (5 accrued days plus 2 carryover days).</p> <p>Medium employers (between 51 and 100 covered employees) Yes. However, must payout a maximum of 16 hours until 7/1/2025, unless employer sets higher limit. *(After 7/1/2025, Medium-sized employers must pay out full amount of unused, accrued leave.) *Same NOTE as above.</p> <p>Small employers (50 or less covered employees) NOT required to payout unused leave.</p> <p>Covered EE who has not received a work assignment for 60 days may request payout of unused Paid Leave.</p>	<p>Generally, no, UNLESS Paid Leave was already credited to an employee’s paid time off bank or vacation account (front loaded). *See Illinois Wage Payment and Collection Act.</p>	<p>Generally, no, UNLESS Paid Leave was already credited to an employee’s paid time off bank or vacation account (front loaded). *See Illinois Wage Payment and Collection Act.</p>

CHI: Regular Rate of Pay



Chicago Ordinance	Cook County Ordinance	PLAWA
<p>Both leaves must be paid at the hourly rate of pay based on the EE's base wage or the applicable minimum hourly wage, whichever is greater.</p> <p>For tipped EES – they should be paid at least the full minimum wage in the jurisdiction where EE is employed when paid leave is taken.</p> <p>For commission-based EES, they should be paid at least the highest amount of the base hourly wage, or the full minimum wage in the jurisdiction where EE is employed when paid leave is taken.</p>	<p>Wages paid to an EE per hour/week as calculated by Cook County Minimum Wage Ordinance.</p>	<p>For EES who do not customarily receive gratuities or commission as part of pay - EE's average hourly rate of pay as calculated according to Subpart D of IL Minimum Wage Law.</p> <p>For tipped or commission earning EES - at least the full minimum wage in the jurisdiction where EE is employed when paid leave is taken.</p>

CHI: Joint Employer Liability



Chicago Ordinance	Cook County Ordinance	PLAWA
<p>Not specifically addressed in ordinance or proposed rules.</p>	<p>Where 2 or more ERS have “some control over the work or working conditions of an employee,” they may be treated as joint employers of the EE for purposes of the ordinance. To be considered joint ERS, each ER must independently satisfy the definition of Employer.</p> <p>“Notwithstanding any agreement among joint employers, all joint employers remain responsible for compliance with the Ordinance and for satisfaction of any penalties imposed for any violation thereof.” Section 320.300 of Cook County Proposed Rules.</p>	<p>All joint employers shall be jointly and severally liable for any violation of the Act.</p> <p>Whether a joint employment relationship exists depends on all the facts. The inquiry will focus on the actual relationship between the employee and the employers, including the employers' ability to exercise control over the employee either directly or indirectly. No one factor is dispositive in the determination of joint employment. Examples at Section 210.115 of 56 Ill. Adm. Code 210.</p>

CHI: Union Represented Employees



	Chicago Ordinance	Cook County Ordinance	PLAWA
Collective Bargaining	<p>EES covered by collective bargaining agreements in effect as of 7/1/2024 are “grandfathered” in for the duration of the pre-existing agreement.</p> <p>For all subsequent CBAs, renewals or extensions, the ordinance will apply unless the parties agree to waive ordinance requirements. Waiver must be explicit, clear, and unambiguous in the agreement.</p>	<p>EES covered by collective bargaining agreements in effect as of 12/31/2023 are “grandfathered” in for the duration of the pre-existing agreement.</p> <p>For all subsequent CBAs, renewals or extensions, the ordinance will apply unless the parties agree to waive ordinance requirements. Waiver must be explicit, clear, and unambiguous in the agreement.</p>	<p>EES covered by collective bargaining agreements in effect as of 1/1/2024 are “grandfathered” in for the duration of the pre-existing agreement.</p> <p>For all subsequent CBAs, renewals or extensions, the ordinance will apply unless the parties agree to waive ordinance requirements. Waiver must be explicit, clear, and unambiguous in the agreement.</p>
Individual Bargaining	<p>Individual waivers will not be recognized and are void as against public policy.</p>	<p>Individual waivers will not be recognized and are void as against public policy.</p>	<p>Individual waivers will not be recognized and are void as against public policy.</p>

CHI: Recordkeeping



Chicago Ordinance	Cook County Ordinance	IL PLAWA
<p>ERS are required to maintain detailed records regarding hours worked, pay rate, wage agreement, accrual, frontloading, usage, and balance for at least 5 years – regardless of whether EE is entitled to PL or PSL.</p> <p>Each time an ER pays wages, ER must provide EES written notification of currently available Paid Leave and Paid Sick Leave, including details related to accruals and usage.</p> <p>Pay stub, online portal, or other reasonable system satisfies this requirement.</p>	<p>ERS are required to maintain the following records for each employee for 3 years: hours worked, amount of paid leave accrued or frontloaded; and hours of paid leave used and when.</p> <p>If an ER frontloads PL, ER shall give written notice to the EE informing them how many PL hours the EE will receive on or before the first day of employment or the first day of the 12-month period.</p>	<p>ERS are required to maintain the following records for each employee for 3 years: hours worked, amount of paid leave accrued or frontloaded; and hours of paid leave used and when. Records must also include remaining paid leave balance in each workweek and upon separation from employment.</p>

CHI: Notice Requirements



	Chicago Ordinance	Cook County Ordinance	PLAWA
<p>Notice and Posting</p>	<p>Employers must post notice published by the Chicago of Office Labor Standards each of its business facilities within Chicago. The notice can be found at: https://www.chicago.gov/content/dam/city/depts/bacp/OSL/PLPS%20One%20Pager.pdf. Form notice must also be provided with new EES' first paycheck.</p> <p>Upon hire, a copy of the written paid leave policy must be provided to all EES.</p> <p>EES must also receive written reminders annually with a paycheck issued within 30 days of July 1, similar to (and along with) mandatory annual minimum wage notices in their primary language.</p> <p>ER of covered EE who has not been offered a work assignment for 60 days must provide written notice to that EE advising them of their right to request a payout of accrued, unused Paid Leave.</p>	<p>Where any EE works within Cook County, a notice advising of their rights under the ordinance is required. County notice can be found at https://www.cookcountyil.gov/service/paid-leave-ordinance-and-regulations.</p>	<p>Every IL employer must post the Paid Leave for All Workers Notice. The posting can be found at: https://labor.illinois.gov/laws-rules/paidleave.html</p>

CHI: Prohibited Practices



Chicago Ordinance	Cook County Ordinance	PLAWA
<p>An ER cannot require a Covered EE to provide a reason for the use of Paid Leave and may not require them to provide documentation or certification as proof or in support of the use of Paid Leave.</p> <p>Not exhaustive!</p>	<p>Requiring that an EE find coverage as a condition of using Paid Leave;</p> <p>Retaliating against an EE for exercising rights under the Ordinance or participating as a party or witness in a case alleging a violation of the Ordinance that is or was pending before the Commission;</p> <p>Counting absences arising from the use of properly noticed Paid Leave as an absence that triggers discipline, demotion, suspension or any other adverse employment action;</p> <p>Switching an EE's schedule after they provide notice that they are using or will use Paid Leave to avoid paying the employee during their absence;</p> <p>Forbidding or requiring an EE to take Paid Leave, provided that it is not prohibited for an ER to require that an EE use accrued Paid Leave when the EE can do so instead of taking an unpaid absence from work; or</p> <p>Paying an EE to not take Paid Leave.</p>	<p>ER is prohibited from considering an EE's use of paid leave as a negative factor in any employment action that involves evaluations, promotion, discipline, or counting paid leave under a no-fault attendance policy.</p>

CHI: Penalties and Filing Period



	Chicago Ordinance	Cook County Ordinance	PLAWA
Damages and Penalties	Employer liable for damages for actual underpayment, compensatory damages and fines ranging from \$1,000.00 to \$3,000.00 per offense (\$500 first), treble damages for unpaid/denied leave, interest and attorneys' fees' and costs. Each day that a violation continues shall constitute a separate and distinct offense.	EE may recover three (3) times the full amount of unpaid leave denied or lost, interest calculated at the prevailing rate, and reasonable attorney's fees. Fines ranging from \$500 to \$1,000.	EE may recover damages for actual underpayment, compensatory damages, equitable relief, which may include attorney's fees, expert witness fees, other costs. Fines ranging from \$500 to \$1,000.
Cure Period	Temporary – from July 1, 2025 to June 30, 2026. Until July 1, 2026, no civil action may be commenced upon the occurrence of an alleged violation of the Paid Leave requirements until after an additional pay period or 16 days has passed, whichever is less.	No	No
Filing Period	Within 3 years of the alleged violation. (2-25-200(8)(e))	Within 3 years of the alleged violation.	Within 3 years of the alleged violation.
Individual Right of Action	Yes. Effective 12/31/23 for Paid Sick Leave, and 7/1/25 for Paid Leave.	Yes.	No.

CHI: Existing Leave Policies



Chicago Ordinance	Cook County Ordinance	IL PLAWA
<p>Proposed Rule PTO 2.01 states that ERS “whose paid time off policies meet or exceed the 3 main requirements of the ordinance -- (i) accrual/grant of hours of Paid Leave and Paid Sick Leave; (ii) carryover of Paid Leave and Paid Sick Leave from one Benefit Year to the next; and (iii) usage of Paid Leave and Paid Sick Leave -- are <u>not</u> required to provide <u>additional leave or records</u> beyond what is required to demonstrate compliance with the ordinance (e.g., when EE must be allowed to begin using PL or PSL).</p> <p>Different from PLAWA and Cook County Ordinance – NO REFERENCE</p>	<p>An ER with a bona fide pre-existing policy (PTO, PSL or Paid Vacation) that allows all employees to take 40 hours of paid leave in a 12-month period for any reason of the employee’s choosing is NOT required to modify the terms of their policy (per Cook County FAQ’s).</p>	<p>An ER with a bona fide pre-existing policy (PTO, PSL or Paid Vacation) that allows all employees to take 40 hours of paid leave in a 12-month period for any reason of the employee’s choosing is NOT required to modify the terms of their policy (per IDOL proposed rules).</p>

The above is based on the **proposed rules – not the language of the law**. In effect, PLAWA and Cook County requires any new ER or ER that did not have paid leave plans in place before/by January 1, 2024, to now adopt an IL Paid Leave for All Workers Act plan. **

How Do These Laws Apply to Remote/Hybrid Employees?



Chicago Ordinance

Not specifically addressed. However, the proposed rules indicate that accrual is only required for hours worked within the City of Chicago.

If an EE works remotely from their residence in Chicago, those hours count towards accrual under this ordinance and its requirements.

Cook County Ordinance

Not specifically addressed. However, the proposed rules indicate that the Commission will consider work that an **individual performs within the geographic boundaries of Cook County** – but not work performed within the boundaries of a municipality that preempts the ordinance – i.e., Chicago ordinance).

This suggests that accrual is only required for hours worked within Cook County, but outside of Chicago. Of course, work performed everywhere else would fall under the PLAWA.

PLAWA

IDOL has traditionally found that Illinois workplace protections apply to employees who primarily perform work in Illinois for a company that does business in Illinois.

Best Practices



- Map out where your EES work (office, field, remote).
- Review paid leave policies and determine if they need to be revised to comply with the applicable local ordinances and PLAWA. This may include adding provisions if your organization's workforce is located in more than one Illinois jurisdiction.
- Distribute the written policy as required and retain employee acknowledgments confirming receipt of the policy.
- Consider whether to adopt an unlimited PTO policy for exempt employees to simplify leave administration and reduce claims exposure for inadvertent violations of leave laws.
- Post all required notices (once issued), add required notices to new hire paperwork, and distribute notices annually, as required.
- Train your EES who are involved in leave administration (HR, payroll administrators, supervisors) for any Illinois EES regarding these new laws, including which EES are covered and similarities and differences between the laws. If you rely on third parties for leave administration, check-in and confirm their plan for compliance.

Best Practices (continued)



- Review timekeeping policies for accrual and carryover of paid leave and/or sick leave.
- Review and update anti-retaliation, attendance, conduct and discipline policies. Be sure that call-in/call-off notification policies are clear about expectations for anyone who does not timely report to work.
- Review current records documenting hours worked, the amount of paid leave accrued and taken, and the remaining paid leave balance for each employee and consider any necessary adjustments to system.
- Consider any production or scheduling changes that may become necessary as more EES begin to take time off, often without advance notice.
- Prepare for next round of CBA negotiation; evaluate current CBAs.
- Stay on top of additional guidance materials from the IDOL, Chicago's Office of Labor Standards, and the Cook County Commission on Human Rights.

Contact Today's Amundsen Davis Speaker



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Bev regularly counsels employers on maintaining compliance with state and federal laws and regulations, develops employment policies, assists clients with executing human resources strategies, negotiates employment and separation agreements, conducts internal investigations, and advises employers in connection with strategic planning related to collective bargaining, fringe benefit fund audits, and withdrawal liability.

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